MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2022/2023

UCN2612 – CONFLICT OF LAWS

(All sections / Groups)

06 OCTOBER 2023

Reading Time: 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 2 pages with 5 Questions only.

3. **Answer ALL questions in PART A and ONE (1) question in PART B.** All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of the following statutes into the exam venue:
   (i) Reciprocal Enforcement of Judgments Act 1958

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

PART A: ANSWER ALL THE QUESTIONS

QUESTION 1

Alice and Michael entered into matrimony in 2005 and established their initial residence in the United States. They have three children: Emily, born in 2008, Liam, born in 2012, and Sophia, born in 2016. In 2019, the family relocated to France for work reasons.

Ben, born in 1990, had parents who were originally domiciled in Canada. He completed his education in London and started a business there. In 2015, he met Emily during a business conference, and they swiftly developed a romantic relationship. They married in 2017 in London but sadly divorced in January 2022, with Emily pregnant at the time of the divorce. Following the divorce, Emily moved to France, to be with her family, where she gave birth to a son named Oliver in July 2022. After spending almost two years in France, Emily decided to pursue a job opportunity in Singapore.

With reference to principle in conflict of laws, explain the changes in domicile for each individual in the given scenario. Your answer must be supported with case law.

(Total: 25 marks)

QUESTION 2

The Malaysian Conflict of Laws rules appear to have been left in the shadows amidst the broader landscape of legal reforms.

Describe the areas of the Malaysian Conflict of Laws rules you think should undergo reform. Support your discussion with relevant authorities, if any.

(Total: 25 marks)

QUESTION 3

Sophia and James, a married couple, lived in Country A for several years. During their time there, they had a daughter named Emily. They were recognized as legally married in Country A, and Emily was considered legitimate under the laws of that country. However, due to work opportunities, Sophia and James moved to Country B. In Country B, their marriage faced legal challenges due to discrepancies in documentation and regulations. The authorities in Country B declared their marriage null and void, retroactively affecting their marital status. Consequently, under the laws of Country B, Emily's legitimacy was called into question. Emily's parents, Sophia and James, faced a complex situation: Emily was considered legitimate in Country A but was viewed as illegitimate in Country B. This dichotomy had significant consequences for Emily's personal status.

With reference to case law explain the intricate issues and the possible consequences that can arise when different jurisdictions have conflicting definitions of legitimacy.

(Total: 25 marks)

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PART B: ANSWER ANY ONE (1) QUESTION ONLY

QUESTION 4

Two multinational companies, Company X based in the United States and Company Y based in Germany, engaged in a complex commercial contract involving the sale of high-tech machinery. The contract does not include any explicit choice of law clause. Disputes arise between the parties, and they find themselves in a legal battle. Company X initiates legal proceedings in the United States, while Company Y does the same in Germany.

Describe the application of the test of "closest connection at common law" in determining the choice of law for this contract. Support your discussion with reference to relevant case law that illustrates how courts have interpreted and applied the "closest connection" test in similar international contractual disputes.

(Total: 25 marks)

QUESTION 5

C, a resident of France, decides to take a leisurely vacation in Italy. While enjoying the scenic landscapes, C's vacation takes a distressing turn. During his stay in Italy, C negligently drives his rented car through a crowded market street in Rome, colliding with D, an Italian national. The collision leaves D with severe injuries, including a broken arm and multiple bruises.
Startled by the incident and concerned about the legal implications, C hastily leaves Italy and returns to his home country of France. D, now recuperating from his injuries, seeks legal advice and contemplates filing a lawsuit against C for the harm caused.

Given C's foreign residence and his departure from Italy after the accident, explain the legal principles and criteria used to determine the appropriate choice of law for initiating legal proceedings. Support your answer with relevant case law.

(Total: 25 marks)

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